

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

DENNIS RICE and HAROLD MACARIOLA,
individually and on behalf of all others similarly
situated,

Consolidated Plaintiffs,

v.

DOLLAR THRIFTY AUTOMOTIVE GROUP,
INC., THOMAS P. CAPO, MARY ANN N.
KELLER, EDWARD C. LUMLEY, RICHARD
W. NEU, JOHN C. POPE, SCOTT L.
THOMPSON, HDTMS, INC., HERTZ
GLOBAL HOLDINGS, INC.,

Defendants.

Case No. 10-CV-294-CVE-FHM
BASE FILE

Consolidated with
Case No. 10-CV-311-CVE-FHM

**DEFENDANTS' OBJECTION TO PLAINTIFFS' PROPOSED DATE FOR
DEFENDANTS' RESPONSE TO MOTION TO EXPEDITE DISCOVERY**

By Expedited Motion filed on July 14, 2010, Plaintiffs moved on an expedited basis for expedited discovery pursuant to Local 37.2(B) and Fed. R. Civ. P. 26(D). (*See* Dkt #47.) Plaintiffs have neither served any discovery requests nor filed any motion for a preliminary injunction, although the sole justification for seeking expedition is because they purportedly wish to challenge a shareholder meeting scheduled for August (and which the plaintiffs have known would be scheduled for August for weeks). Defendants oppose the Motion and object to the July 16, 2010 response date proposed by Plaintiffs. Defendants will, of course, file their Response in Opposition as ordered by the Court, but simply request that the timing of any response be within the bounds of reason and practicality.

As shown by the Affidavit of Carl Stine, attached to Plaintiffs' Motion, Plaintiffs first discussed expedited discovery with Defendants' counsel on June 25, 2010, and then requested a

statement of objection/non-objection on July 8, 2010. Plaintiffs did not file their Motion for Expedited Discovery until late in the afternoon of July 14, 2010, six days after obtaining Defendants' statement of objection, and combined their Motion with the suggestion that Defendants receive only two days to file a response.

Plaintiffs are currently engaged in expedited deposition discovery in connection with motions for preliminary injunction filed in Chancery Court in Delaware (set for August 10, 2010) and in Tulsa County District Court (set for August 12, 2010). The fact that there are two competing jurisdictions for this class action litigation, in addition to this Court, is a point Defendants have raised in their Motion to Dismiss (Dkt #38, pp. 19-25). That motion, which was filed nearly a month ago, not only demonstrates that the Plaintiffs' claims are without merit but that there is no subject matter jurisdiction over this action in this Court. Even though these threshold issues are pending, and in the face of their purported current need for expedition, Plaintiffs requested (and Defendants did not oppose) a period of six weeks within which to respond to that motion. As a result, the briefing on these threshold questions has been continued to August 5, 2010, with Defendants' Reply extended to September 7, 2010. (*See* Dkt #45 (Motion), #46 (Order.)) Put mildly, the leisurely pace with which Plaintiffs wish to litigate foundational questions belies any justifiable need for urgency on this discovery motion.

WHEREFORE, premises considered, Defendants would request the Court not set a date for Defendants Response in Opposition date before July 22, 2010. Defendants need at least a week to respond.

DATED: July 15, 2010

Respectfully submitted,

By: s/ Gerald L. Hilsher
Gerald L. Hilsher, OBA #4219
Christina M. Vaughn, OBA #21390

OF COUNSEL:

Mitchell A. Lowenthal
Deborah M. Buell
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
(212) 225-2000

McAfee & Taft, P.C.
1717 S. Boulder Ave., Suite 900
Tulsa, Oklahoma 74119
(918) 587-0000

John N. Hermes, OBA #4133
McAfee & Taft
Tenth Floor
Two Leadership Square
211 North Robinson
Oklahoma City, Oklahoma 73102
(405) 235-9621

*Attorneys for Defendants Dollar Thrifty
Automotive Group, Inc., Scott L. Thompson,
Thomas P. Capo, Maryann N. Keller, Edward
C. Lumley, John C. Pope, and Richard W. Neu*

OF COUNSEL:

Joseph Moodhe
Debevoise & Plimpton LLP
919 Third Avenue
New York, New York 10022
(212) 909-6000

By: s/ Michael J. Gibbens
Michael J. Gibbens, OBA #3339
James L. Kincaid, OBA #5021
Crowe & Dunlevy
321 South Boston Avenue
500 Kennedy Building
Tulsa, Oklahoma 74103
(918) 592-9800

*Attorneys for Defendants Hertz Global
Holdings, Inc. and HDTMS Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2010, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants (names only are sufficient):

andrew@andrewshartman.com
jack.moore@andrewshartman.com
jnotis@gardylaw.com
jsarnelli@gardylaw.com
srowley@faruqilaw.com
jmogil@faruqilaw.com

I hereby certify that on July 14, 2010, I served the attached document by mail, on the following, who are not registered participants of the ECF System:

Carl S. Stine
Wolf Popper LLP
845 Third Avenue
New York, NY 10022

Chet B. Waldman
Wolf Popper LLP
845 Third Avenue
New York, NY 10022

s/ Gerald Hilsher
Gerald Hilsher